

Exhibits

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

-----X
:
GALLEON S.A., :
BACARDI-MARTINI U.S.A., INC., and :
BACARDI & COMPANY LIMITED, :
:
Petitioners, :
:
-against- :
:
HAVANA CLUB HOLDING, S.A., dba HCH, :
S.A., and EMPRESA CUBANA EXPORTADORA :
DE ALIMENTOS Y PRODUCTOS VARIOS, :
S.A., dba CUBAEXPORT, :
:
Respondents. :
X

Cancellation No. 24,108



PETITIONERS' RESPONSE TO RESPONDENT CUBAEXPORT'S MOTION FOR AN ORDER (1) DISMISSING BACARDI'S AMENDED PETITION TO CANCEL; (2) IN THE ALTERNATIVE, DIRECTING BACARDI TO SHOW CAUSE WHY ITS AMENDED PETITION SHOULD NOT BE DISMISSED AND COMPELLING DISCLOSURE OF ALL EX PARTE COMMUNICATIONS; AND (3) SUSPENDING ALL PROCEEDINGS PENDING RESOLUTION OF THIS DISPOSITIVE MOTION

Cubaexport has filed a motion that is in all substantive respects the same as HCH's Motion Pursuant to the Government in the Sunshine Act filed on September 10, 2002 and Motion for Reconsideration of the Board's Decision Dated January 21, 2003 filed on February 19, 2003. Indeed, Cubaexport's purported motion expressly incorporates HCH's papers *in toto* and appends the Declarations which were submitted with HCH's earlier motions. (*See* Respondent Cubaexport's Motion, Exhs. A and B.)

This is yet another instance of the deliberate stalling tactics employed by respondents to avoid having the Board reach this case on the merits. Accordingly, annexed

hereto as Exhibit A is Bacardi's original response to HCH's Sunshine Act motion filed on September 25, 2002. As the parties well know, HCH's motion was denied by the Board in its Order dated January 21, 2003 which is annexed hereto as Exhibit B.

Finally, we further note that the Board's most recent Order dated April 15, 2003, which is attached hereto as Exhibit C, recognizing OFAC's decision on Fish & Neave's application for a specific license to represent Cubaexport in this proceeding, did not encompass Cubaexport's filing the instant motion. That Order expressly allowed them to appear and respond to our summary judgment motion made on March 15, 2002. Accordingly, Cubaexport's instant motion, which is outside of the Board's Order, is entirely improper and should be stricken.

III. CONCLUSION

Based on the foregoing, Cubaexport's motion should be stricken in its entirety.

Date: May 6, 2003

Respectfully submitted,

KELLEY DRYE & WARREN LLP

By: 

William R. Golden, Jr.

Magaret Ferguson

Michelle M. Graham

Attorneys for Petitioners Galleon S.A.,

Bacardi-Martini U.S.A., Inc. and

Bacardi & Company Limited

CERTIFICATE OF MAILING

EXPRESS MAIL LABEL NO.: ET534721819US

DATE OF DEPOSIT: May 6, 2003

The undersigned hereby certifies that on May 6, 2003 a copy of the foregoing PETITIONERS' RESPONSE TO RESPONDENT CUBAEXPORT'S MOTION FOR AN ORDER (1) DISMISSING BACARDI'S AMENDED PETITION TO CANCEL; (2) IN THE ALTERNATIVE, DIRECTING BACARDI TO SHOW CAUSE WHY ITS AMENDED PETITION SHOULD NOT BE DISMISSED AND COMPELLING DISCLOSURE OF ALL EX PARTE COMMUNICATIONS; AND (3) SUSPENDING ALL PROCEEDINGS PENDING RESOLUTION OF THIS DISPOSITIVE MOTION is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. 1.10 on the date indicated above and is addressed to Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3514, Box TTAB-No Fee.



Mariana Acevedo

CERTIFICATE OF SERVICE

I hereby certify that on May 6, 2003, I caused a copy of PETITIONERS' RESPONSE TO RESPONDENT CUBAEXPORT'S MOTION FOR AN ORDER (1) DISMISSING BACARDI'S AMENDED PETITION TO CANCEL; (2) IN THE ALTERNATIVE, DIRECTING BACARDI TO SHOW CAUSE WHY ITS AMENDED PETITION SHOULD NOT BE DISMISSED AND COMPELLING DISCLOSURE OF ALL EX PARTE COMMUNICATIONS; AND (3) SUSPENDING ALL PROCEEDINGS PENDING RESOLUTION OF THIS DISPOSITIVE MOTION to be served on:

(A) Charles S. Sims, Esq. of Proskauer Rose LLP, counsel for respondent Havana Club Holding, S.A., by causing a true and correct copy thereof to be delivered by hand addressed to the aforesaid attorney at 1585 Broadway, New York, New York 10036, the address designated by said attorney for that purpose; and

(B) Herbert F. Schwartz, Esq. of Fish & Neave, counsel for respondent Empresa Cubana Exportadora de Alimentos y Productos Varios, S.A. by causing a true and correct copy thereof to be delivered by hand addressed to the aforesaid attorney at 1251 Avenue of the Americas, New York, New York 10020, the address designated by said attorney for that purpose.

Dated: May 6, 2003



Mariana Acevedo

KELLEY DRYE & WARREN LLP

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May 6, 2003



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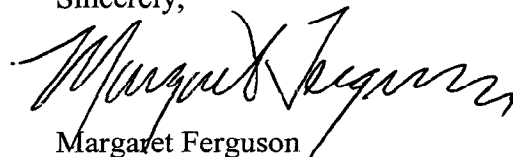
Re: Galleon, S.A. et al. v. Havana Club Holdings, S.A., et al.,
Cancellation No. 24,108

Dear Sir or Madam:

In connection with the above-captioned cancellation proceeding, we enclose PETITIONERS' RESPONSE TO RESPONDENT CUBAEXPORT'S MOTION FOR AN ORDER (1) DISMISSING BACARDI'S AMENDED PETITION TO CANCEL; (2) IN THE ALTERNATIVE, DIRECTING BACARDI TO SHOW CAUSE WHY ITS AMENDED PETITION SHOULD NOT BE DISMISSED AND COMPELLING DISCLOSURE OF ALL EX PARTE COMMUNICATIONS; AND (3) SUSPENDING ALL PROCEEDINGS PENDING RESOLUTION OF THIS DISPOSITIVE MOTION.

Kindly acknowledge receipt of same by stamping and returning the enclosed self-addressed postcard.

Sincerely,


Margaret Ferguson

Enclosures